IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. 99-371)

PATENT

In re Application of: Thomason et al.	)	
	)	
Serial No.: 09/391,861	)	**Before the Examiner: F. G. Sajjadi**
	)	
Filed: September 7, 1999	)	**Group Art Unit: 1633**
	)	
For: Fibroblast Growth Factor-Like Polypeptides	)	
	)	

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INFORMATION DISCLOSURE STATEMENT

This statement is filed under 37 C.F.R. §§ 1.97-1.98 in compliance with the duty of disclosure set forth in 37 C.F.R. § 1.56. Applicants respectfully request that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

The following references were originally listed on the Form PTO-1449 (Information Disclosure Statement by Applicant) or accompanying Information Disclosure Statement Letter submitted on February 28, 2000, but do not appear to have been considered by the Office:

EP 0 036 676;

EP 0 058 481;

EP 0 088 046;

EP 0 143 949;

EP 0 154 316;

EP 0 505 500;

WO 91/09955;

WO 91/10425;

WO 91/10470;

WO 93/15722;

WO 94/20069;

WO 94/28122;

WO 95/05452;

WO 95/34670;

WO 96/37609;

WO 96/40958;

WO 96/41865; and

WO 97/31899.

Among the references listed above is European Patent Publication No. 0 088 046, which is written in the German language. Pursuant to 37 C.F.R. § 1.98(a)(3)(i), Applicants submit that the instant application explains that:

> Sustained-release compositions also may include liposomes, which can be prepared by any of several methods known in the art (*see, e.g.*, Epstein et al., *Proc. Natl. Acad. Sci. U.S.A.* 82:3688-92 (1985); EP Patent Nos. 36,676; 88,046; and 143,949).

U.S. Application No. 09/391,861, page 60, lines 2-5. In addition, a search of the DialogWeb INPADOC/Family and Legal Status database (File 345) at http://www.dialogweb.com/servlet/logon?Mode=1 indicates that corresponding U.S. Patent No. 4,619,794 has an abstract stating:

> The present invention relates to a novel advantageous process for the preparation of unilamellar liposomes in aqueous phase by converting a suitable lipid component, e.g. phosphatidic acid, into the ionic form by subjecting the lipid dispersion to a change in pH value and subsequently neutralizing it. Formation of the unilamellar liposomes is spontaneous, i.e. it takes place without additional external supply of energy. The liposomes obtainable by the process of this invention can be used therapeutically as carriers for drugs of the most widely different kind.

The following references were cited by the Office in Actions mailed April 8, 2003; January 5, 2004; and October 6, 2004, but have not been listed on a Form PTO-892 (Notice of References Cited):

Bork *et al.*, *Trends Genet.* 12(10):425-27 (1996);

Bork, *Genome Res.* 10(4):398-400 (2000);

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Brenner, *Trends Genet.* 15(4):132-33 (1999); and

Ngo *et al.*, *The Protein Folding Problem and Tertiary Structure Prediction* 492-95 (1994).

The following references were listed on a Form PTO-892 mailed on July 19, 2002 for related U.S. Application No. 09/644,052 (but were not discussed in the corresponding Action):

Bork *et al.*, *Nature Genetics* 18(4):313-18 (1998);

Doerks *et al.*, *Trends Genet.* 14(6):248-50 (1998);

Mikkelsen, *Trends Genet.* 9(5):159 (1993);

Skolnick *et al.*, *Trends Biotechnol.* 18(1):34-39 (2000); and

Smith *et al.*, *Nat. Biotechnol.* 15(12):1222-23 (1997).

The following references were listed on a Form PTO-892 mailed March 11, 2003 for related U.S. Application No. 09/644,052 (but with the exception of the Polejaeva *et al.*, 2000 reference, were not discussed in the corresponding Action):

Bishop, *Reprod. Nutr. Dev.* 36(6):607-18 (1996);

Polejaeva *et al.*, *Theriogenology* 53(1):117-26 (2000); and

Rulicke *et al.*, *Exp. Physiol.* 85(6):589-601 (2000).

The following reference was cited by Applicants in their Response filed June 2, 2006:

Niyogi, *J. Biol. Chem.* 244(6):1576-81 (1969).

The following reference was cited by the Japanese Patent Office in corresponding Japanese Patent Application No. 2001-522384:

Nakamura *et al.*, *Genomics* 30(2):312-19 (1995).

This submission does not constitute an admission that any of the documents listed on the attached Form PTO/SB/08a is material or constitutes "prior art." In addition, this submission does not represent that a search has been made or that no better art exists. If the Examiner applies any of the documents as prior art against any claim in the application and Applicants

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determine the cited documents do not constitute "prior art" under United States law, Applicants reserve the right to present to the Office the relevant facts and law regarding the appropriate status of such documents. Applicants further reserve the right to take appropriate action to establish the patentability of the claimed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, Applicants hereby authorize the Commissioner to charge the fee to Deposit Account No. 13-2490.

Respectfully submitted,
McDonnell Boehnen Hulbert & Berghoff LLP

Dated: April 22, 2008

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